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ABSTRACT

This report to the United Nations Committee on the Rights of the Child contains observations of the World Organisation Against Torture (OMCT) concerning the application of the U.N. Convention on the Rights of the Child by the Republic of Senegal. Part 1 of the report, "Preliminary Observations," discusses Senegal's ratification of the Convention on the Rights of the Child and its participation in other international instruments relating to human rights which condemn the practice of torture. Part 2, "General Observations," discusses in detail Senegal's legislation regarding torture and crimes against children and points out perceived inadequacies in policy and practice. Part 3, "Children in Conflict with the Law," details Senegal's Penal Code with regard to minors, pointing out areas for improvement. Part 4, "Conclusions," asserts that the International Secretariat of OMCT/SOS-Torture laments the excessively condensed manner in which Senegal addressed torture and cruel, inhuman punishment in its reporting on article 37 of the Convention of the Rights of the Child. This section also includes various recommendations and lists areas of concern regarding compliance with the Convention. The report concludes with a summary of observations and recommendations by the U.N. Committee on the Rights of the Child--Senegal, in the following areas: positive factors, factors and difficulties impeding the implementation of the Convention, principal subjects of concern, and suggestions and recommendations. (EV)

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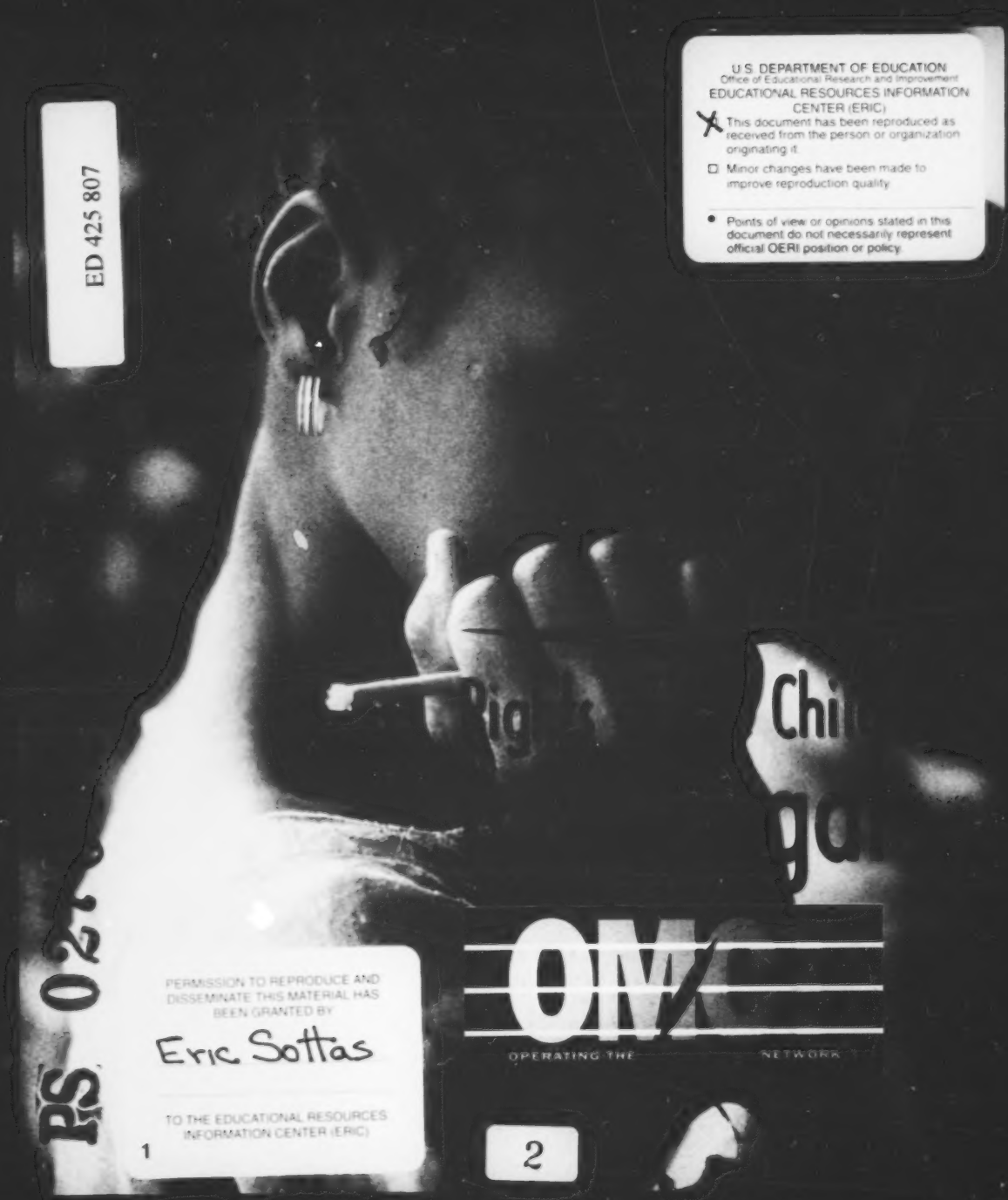

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# Rights of the Child in Senegal

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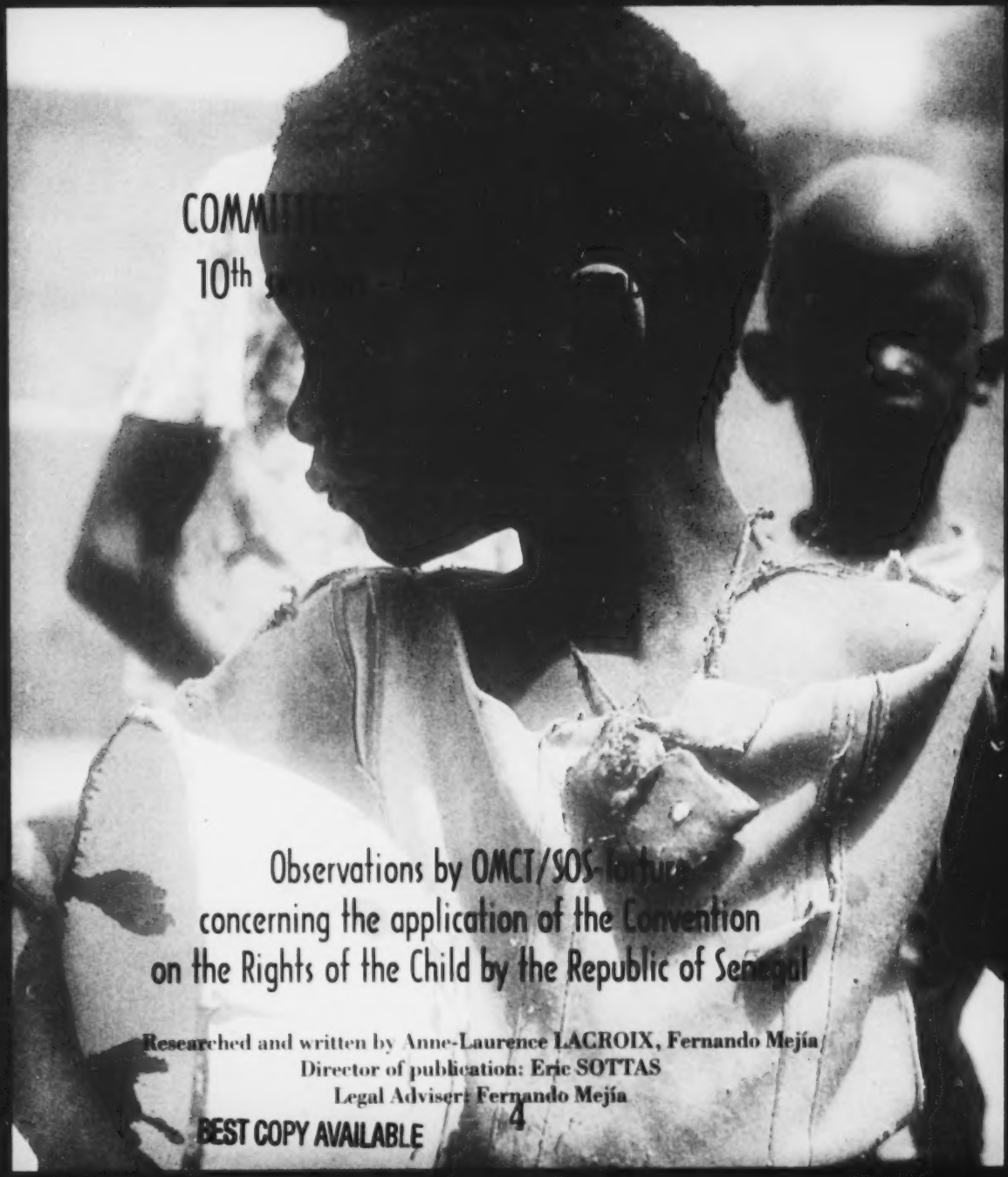


# Observations by OMCT/SOS-Torture concerning the application of the Convention on the Rights of the Child by the Republic of Senegal

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# I. Preliminary Observations

1. The Republic of Senegal ratified, on July 21st 1990, the Convention on the Rights of the Child, which entered into force on 2 September of the same year.

2. Senegal is also a party to other international instruments relating to human rights which condemn the practice of torture, inter alia the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

3. The International Secretariat welcomes the legislative and institutional efforts made by the Republic of Senegal with a view to fulfilling its obligation under the Convention on the Rights of the Child; and its co-operation with various organisations - UNICEF and national NGOs - in order to set up programs aimed at promoting the protection of children.

# II. General Observations

4. Report CRC/C/3/Add.31 deals all too briefly with the question of torture and other cruel, inhuman or degrading treatment or punishment merely stating that *"the Senegalese legislation is copious and diverse...with respect to the protection of the child against all forms of physical or mental abuse"* (CRC/C/3/Add.31 § 72).

5. But even if the Constitution (art. 6) implicitly condemns torture and the suppletive legislation contains equally *"implicit"* references to torture, torture is not qualified as such in Senegalese legislation. Moreover, no other definition of torture exists except the one contained in the provision of article 1 in the Convention Against Torture. In this connection, it should be noted that a definition of torture is under study as part of a project of a law modifying the Penal Code. This leads us to believe the authorities consider it necessary that a definition of this crime be included in positive law for it to be applicable. This, in turn, leads to the conclusion that in the

present state of affairs the definition of the Convention is not sufficient.

6. The absence of a definition of torture further complicates matters because on the one hand, the legislation in force does not contain references to mental torture and, on the other, no penalties are mentioned in connection with the attempt to exercise torture or acts which constitute complicity or participation in the act of torture.

7. The International Secretariat welcomes the fact that, according to the report (CRC/C/3/Add. 31), the Senegalese legislation provides the application of relatively severe penal sanctions against those responsible for crimes against children. Indeed the legislation in force generally provides severe sanctions against "*evil-doers, whatever their denomination, which employ torture in order to carry out their crimes ...*" (art. 288 of the Penal Code).

8. However, a perusal of some of the provisions of the penal legislation reveals a number of inconsistencies with respect to the repression of torture. For instance, certain penalties are not proportionate to the gravity of the crime, while other provisions enable agents of the State responsible for torture to claim that they were acting under orders as a way of diminishing their responsibility. Moreover, the Penal Code introduces, with respect to the penalty applicable in cases of torture, discrimination based on the age of minors.

9. Thus, art. 298 of the Penal Code provides a prison term of 1 to 5 years for anyone who has "*voluntarily*" injured, beaten or carried out any other form of violence against a child "*below the age of 15 years*". This penalty could be increased to 3 to 7 years in case of illness or total incapacity to work for more than 20 days as a result of violence or in case of premeditation or ambush, and to 5 to 10 years if "*those guilty are the father and mother or other family members or any person with authority or guardianship over the child*".
These sanctions represent a grave discrimination against children over the age of 15 and moreover they contradict the Convention and several national provisions relating to the protection of children beyond that age.

10. The penalties provided in art. 298 of the Penal Code are of a lesser degree compared with other crimes.
An act committed against the Constitution "*... resulting from a false signature or name of a Minister or a public official*", art. 109 of the Penal Code, provides for a term of forced labour of 10 to 20 years. On the other hand, art. 110 of the same penal law provides a term of imprisonment from 5 to 10 years for "*public officials in charge of administrative or judiciary police who may have refused or neglected to defer to a legal request enquiring into illegal and arbitrary detentions, either in establishments provided for the custody of detainees, or anywhere else, and who fail to justify reporting them to a higher authority ...*"

11. The International Secretariat also notes that penalties provided under art. 298 of the Penal Code are not applicable in cases of "*... slight violence*".
There is, however, no provision defining what is meant by "*slight violence*". This is all the more disturbing since the introduction of such a concept may encourage the impunity of those responsible for infringements which are particularly serious, but difficult to recognise.

12. Although those responsible for violence against a minor over the age of 15 do not remain unpunished, the sanctions involved in such cases are considerably less harsh.
Indeed, art. 296 of the Penal Code provides a term of imprisonment of one month to two years and a fine in cases where physical assault does not cause illness or incapacity to work, and a penalty of two to five years in case of premeditation.

13. In view of the above, even if the crime of torture is implicit, it will be noted that when state agents are found responsible the applicable sanctions are less severe.
Indeed, with reference to the responsibility of state agents, art. 166 of the Penal Code provides that the author of violence "*without a legitimate motive*" is liable to a sanction according to "*the nature and gravity of such violence*".

14. It is therefore likely that a state agent responsible for violence or assault (without a legitimate motive) against a child under the age of 15 may be liable to

imprisonment from 1 to 5 years and a fine (art. 298 of the Penal Code). On the other hand, if the victim is above the age of 15 the person responsible would only be liable to a penalty of 1 month to 2 years of imprisonment and a fine or 2 to 5 years in the case of premeditation (art. 166 and 296 of the Penal Code).

15. However, taking into account the "*nature and gravity of such violence*", it is also likely that the agent responsible shall be the object of a harsher penalty from 10 to 20 years' hard labour "*If the violence was followed by mutilation, amputation or loss of the use of a limb, blindness, loss of an eye or other permanent infirmity or if it led to unintentional death ...*" (art. 299 of the Penal Code).
This, however, is a much less serious penalty than that of "*forced labour for life*" provided by the already mentioned clause 2 of art. 299, which states "*If the guilty are the father and mother or other ascendants, relatives or any persons with authority or guardianship over the child ...*".

16. Moreover, the International Secretariat is concerned by the limits and consequences implied in the notion of "*legitimate motive*".
These terms, in most cases, end up being used as pretexts for mitigating the responsibility of the State and its agents. They are also likely to diminish the effectiveness of the principle of non-recognition of confessions or declarations obtained under torture as well as the legal invalidity, provided under art. 57 of the Code of Penal Procedure, of the minutes of hearings in case of threats on the part of the investigators.
Consequently, the authorities should be required to explain the meaning of the expression "*legitimate motive*" as well as the measures adopted in order to avoid their being used as a means of circumventing the law.

17. The International Secretariat notes that the report (CRC/C/3/Add. 31) does not list the possibilities available to minors for filing a complaint in case of ill-treatment on the part of officials (agents of the police, staff of penitentiary establishments, army personnel). Similarly, no mention is made of guarantees put in place for prompt investigations of such complaints or of any mechanisms ensuring objective, impartial and independent enquiries.

In the cases where the legislation recognises and protects such rights, the authorities should make clear the available means of appeal, as well as measures adopted to prevent the officials involved from exercising pressure on the complainant.

18. The Secretariat of OMCT/SOS-Torture also maintains that the authorities should inform the Committee of the measures taken in order to investigate acts of violence committed in the last few years against minors within the framework of the Casamance conflict and which are imputable both to the army and to the rebels.

19. It should be remembered that when the Senegalese army confronted elements of the South Front of MFDC at Kaguit on 1 and 2 September 1992, military elements shot and beat up males aged between 14 and 70. Moreover, a recent enquiry concerning the impact of the conflict on children in Casamance reveals that in the sub-prefecture of Niaguis, 25% of the children were subjected to ill-treatment by the rebels.

20. The International Secretariat insists that it is essential that those guilty of such acts should not enjoy impunity, or immunity from prosecution. It is also important that any person brought professionally into contact with minors should be trained in the provisions of the Convention on the Rights of the Child.
Moreover, even if there is recognition of the rights of direct victims of torture to redress and fair and adequate compensation (art. 2 and 3 of the Code of Penal Procedure), the authorities should make clear whether there is, as far as children are concerned, a specific procedure, different from the general rule, linking the right to redress and compensation and the responsibility of the State to a decision in matters of criminal law.

21. The International Secretariat is also concerned with respect to sanctions referring to other crimes committed against children and more particularly violations of varying gravity which, however, are punishable by identical penalties.
It will be noted, for instance, that art. 324 of the Penal Code provides for a penalty of 2 to 5 years' imprisonment for the prostitution of a minor.
The same penalty of 2 to 5 years'imprisonment is provided for cases of full or

partial sexual relations with a minor of 13 years or an act of indecency without violence on a minor under the age of 13 (art. 300 and 319 of the Penal Code).

22. The age limit, as dealt with by art. 300 and 319 of the Penal Code, implies unjustified discrimination since it protects victims aged 13 and over only in certain specific cases.
Article 319, clauses 2 and 3 of the Penal Code, provides for the maximum penalty only in the following circumstances:
- when "*the act of indecency is committed by any older family member or any person with authority over the minor even if the latter is over the age of 13*";
- in case of a "*shameless or unnatural act with an individual of the same sex*" (art. 319, clause 3).
It would appear that only in these two specific cases is there additional protection offered to minors above the age of 13 and under the age of 21.

23. In view of the absence of other provisions concerning acts of indecency - consummated or attempted without violence - involving a minor over the age of 13, it is to be feared that those responsible may only incur a penalty similar to that provided for in cases of indecent public exposure.
According to art. 318 of the Penal Code, the author of such a crime (indecent public exposure) would be liable to a term of imprisonment of 3 months to two years and a fine ...

24. Moreover, as far as the act of indecency is concerned - whether consummated or attempted with violence - art. 320 (clauses 3 and 4) of the Penal Code provides for a term of imprisonment from 5 to 10 years. The maximum penalty shall be applicable if the victim is a child "*below the age of 13*".
In addition to the discrimination against victims over the age of 13, it should be noted that the law does not provide for any increase in the penalties for specific cases as in art. 319 clauses 2 and 3.

25. It will be noted also that as far as rape is concerned, article 320, clause 1, of the Penal Code, provides a term of five to ten years' imprisonment. However, "*if the crime has been committed against a child below the age of thirteen*" the maximum penalty is applicable.

26. The International Secretariat stresses its concern with respect to the concept of "*without violence*" to which art. 319 of the Penal Code refers.
Indeed, the lack of precision on this question leads to the belief that in case of violence other than physical, the person guilty would escape punishment altogether or would incur a lesser penalty (from 3 months to 2 years if the penalty provided in art. 318 is applied).

27. The Republic of Senegal should be called upon to review its legislation in order to ensure the application of sanctions liable to effectively discourage this type of crime including the sexual exploitation of children.
The sanctions provided for in this type of crime seem to be in contradiction with other provisions aimed at protecting minors under the age of 21. As far as these crimes are concerned, therefore, the legislation should take into account the definition of child given in article 1 of the Convention.

# III. Children in conflict with the law

28. According to paragraph § 177 of the report (CRC/C/3/Add. 31) "*While the children receive special treatment under Senegalese legislation as a whole, the treatment of children in criminal proceedings illustrates the particular desire of the authorities to protect children.*"
While the International Secretariat does not question the good intentions of the Republic of Senegal in this matter, some of the provisions of the Penal Code and the Code of Penal Procedure call for a number of observations.

29. On perusing § 12 (relating to article 3 of the Convention) of the report submitted by the State, the International Secretariat notes that article 13 of the Family Code determines the minor's legal domicile which the minor may not leave without the parents' authorisation.
However, the report does not specify the consequences following a breach of this provision. The authorities should consequently state what the measures applicable in such cases are and what, if any, are the consequences of re-offending.

30. According to article 565 of the Code of Penal Procedure "*No measure may be taken against a delinquent under the age of 18...*". The authorities also state, in § 180 of the report, that no minor below the age of 21, whether delinquent or in moral danger, may be dealt with other than in accordance with established measures, the first of these being laid down in article 566 which grants "*... exclusive competence to children's tribunals for any crimes or offences committed by minors below the age of 18...*".
The International Secretariat welcomes the fact that no person below the age of 18, and even below 21 if in moral danger, may be tried by a court other than a tribunal for minors.

31. Nevertheless, § 190 mentions that art. 574 provides that an investigating magistrate may, according to the case in question, issue "*an order of disqualification and of transfer*" of the minor to "*a simple police court*".
This provision calls for two comments :

a) does not the transfer of a minor to a simple police court contradict art. 566 of the Code of Penal Procedure which bestows exclusive competence to children's courts for any crimes or offences committed by minors below the age of 18;

b) what sanctions are imposed by a police court against a minor since such a tribunal comes under ordinary judicial authority?

32. In § 181 of the report, the Senegalese authorities state that according to art. 567 of the Code of Penal Procedure "*the juvenile court may pass a penal sentence on a minor aged 13, but this must conform to the provisions of articles 52 and 53 of the Penal Code (...)*".
Even though art. 567 provides that sentences "*are always liable to modification or review*", the International Secretariat of OMCT/SOS-Torture is particularly worried by the severity of the penalties to which minors are liable, for example in view of the fact that :

a) if the penalty provided for the crime is death or forced labour for life, the tribunal will impose a penalty of 10 to 20 years;

b) if the penalty is one of forced labour for 10 to 20 years or 5 to 10 years, the tribunal will pass a sentence of imprison-

ment equal to half of one of these two penalties;

c) if the penalty incurred is loss of civil rights, the tribunal will pass sentence of a maximum of two years' imprisonment.

33. The Senegalese authorities assert, in § 178 of the report, that "*sentences of imprisonment are passed only rarely*". Yet certain information dating back to February 1994 refers to the conviction and incarceration of 41 minors for offences which do not seem to justify a custodial sentence.
The International Secretariat wishes to draw attention to the fact that in accordance with article 37 (b) of the Convention, the arrest, detention or imprisonment of minors should be used only as a last resort and should be as brief as possible. OMCT/SOS-Torture would like the government of Senegal to explain which crimes are liable to incur such penalties.

34. Although the death penalty has been implemented only twice in 34 years and such a sentence cannot be passed on a minor (§ 35 of the government report), the International Secretariat considers that the mere threat of the implementation of such a penalty is in itself a source of grave psychological suffering for a child. The government should abolish the death penalty once for all.

35. Art. 42 of the Penal Code states that a re-offender who has previously been sentenced to a penalty involving either forced labour for life or for a limited period, or criminal detention (according to art. 7 of the Penal Code) or involving loss of civil rights (according to art. 8 of the Penal Code) will be liable to double the penalty incurred.
According to article 567 of the Code of Penal Procedure, children are liable to penalties provided under art. 52 of the Penal Code including loss of civil rights; this penalty is replaced by a maximum of two years' imprisonment.
On the other hand, art. 28 of the Penal Code provides that if loss of civil rights is the main penalty, it can be replaced by imprisonment of up to 5 years.

36. It should also be noted that under art. 27 of the Penal Code loss of civil rights includes the loss of rights which only adults are able to enjoy. It should be further noted that § 5 of the Senegalese

report states that a minor is subject to paternal authority until the age of 21. The authorities should explain whether in practice the loss of civil rights can effectively be applied to a minor. In case of re-offence by a minor previously sentenced to loss of civil rights, the penalty incurred would be imprisonment which seems to justify, the practice of custodial sentences for children as automatic rather than a last resort.

37. § 197 of the report submitted by the Government of Senegal leads the International Secretariat of OMCT/SOS-Torture to repeat its earlier observations. According to article 582 of the Code of Penal Procedure the placement or handing over of a minor to parents, guardian or other trustworthy persons *"are ordered for a number of years which may not exceed the age of majority of the minor, fixed at 21 years"*.
The International Secretariat notes that the fact that the age of civil majority is taken into account in penal provisions would be liable to allow the application of penalties beyond the age of 18.

38. In § 200 of its report the government of Senegal states that as the incarceration of a minor is a strictly exceptional measure, *"the legislator has, in several provisions of the Code of Penal Procedure, defined the conditions of carrying out measures of incarceration"*. However, the International Secretariat of OMCT/SOS-Torture notes that the report does not mention the following points:

a) The duration of police custody and provisional detention. According to certain information, on 20 December 1994, 47 minors between the ages of 13 and 16 were incarcerated at Dakar prison, 38 of whom had been in provisional detention for less than 6 months. The International Secretariat wishes to recall that police custody and provisional detention are temporary judicial measures and should consequently be reduced to a minimum.

b) Detention conditions in penitentiary establishments. According to various information there is reason to believe that these conditions do not correspond to the general principles and standards governing the deprivation of liberty in general and that of children in particular, espe-

cially with respect to the separation of minors from adults. In fact, both overcrowding and promiscuity in prisons make it difficult to apply the protection measures for incarcerated minors. Additional information would also be necessary concerning the existence of means of supervision, educational facilities, sanitary conditions and hygiene.

39. In § 73 of its report, the government of Senegal mentions the setting up by the Ministry of Health and Social Affairs, in co-operation with UNICEF, of a programme for children "*in especially difficult circumstances*" (PESPD), which includes a project called "*Talibés project*".
The conditions of existence of the Talibés - minors entrusted to a religious guardian who teaches them the Koran and who are forced to beg in order to survive - call for the following observations :

a) Art. 4 of the Decree of February 6th 1964 provides that children below the age of 15 are not allowed to beg and that no one has the right to ask a child to beg. By virtue of that article the Talibés - generally aged between 7 and 10 years - are consequently liable to conviction.

b) Article 245 of the Penal Code provides that "*begging is forbidden*" and that "*anyone guilty of begging is liable to a prison sentence of between 3 and 6 months*" and that "*a similar penalty shall be imposed upon those who allow minors under the age of 21 subject to their authority to beg*". However, it is also stated that "*the fact of soliciting alms on days, in places and under conditions consecrated by religious tradition does not constitute begging.*"

40. In the light of this provision, OMCT/SOS-Torture wonders whether the practice of begging by the Talibés is part of a religious tradition, in which case neither the children nor the marabous who asked them to beg may be prosecuted. It is therefore necessary for the government of Senegal to state clearly :

1) what is the situation of these children from the legal, cultural and social point of view (particularly with respect to education, assistance, etc.);

2) whether the marabous are punishable in the eyes of the law or whether they enjoy "*impunity*" because their practice is part of religious tradition.

More generally, the problem of the Talibés leads us to the equally serious problem of children living in the street. The growing impoverishment of families who do not always have the means to satisfy their children's needs, gives rise to special problems which lead the children to adopt survival strategies, delinquent activities such as theft, begging, vagrancy, etc.

41. However, according to art. 243 of the Penal Code, vagrancy is punishable by 1 to 3 months' imprisonment. Moreover, the Penal Code provides a penalty of 2 to 5 years' imprisonment for vagrants or beggars caught in female disguise or carrying arms or any implement suitable for committing theft or other crimes.
It would therefore be desirable for the State to indicate if in such cases minors are liable to be convicted and what provisions for commutation of sentences exist for such circumstances.

42. The International Secretariat wishes to stress that Senegalese legislation recognises the child's right to judicial appeal : the child is thus able to appeal at any stage of the proceedings.

43. However, § 14 of the report of Senegal mentions that in case of divorce by mutual consent the fate of the children is subject to the "*sovereign*" evaluation of the judge. The International Secretariat recalls that, by virtue of art. 9 of the Convention on the Rights of the Child, all the parties concerned, and thus also the child, should have the possibility of taking part in the deliberations and of expressing their views.
But the report does not state whether the child effectively enjoys this right and, if that is the case, whether it can be represented by a legal adviser other than that of the other parties.

# IV. Conclusions

44. The International Secretariat of OMCT/SOS-Torture laments the excessively condensed manner in which the report deals with article 37 of the Convention on the Rights of the Child. Both torture and cruel, inhuman or degrading forms of punishment or treatment constitute major violations of the Rights of the Child and must, consequently, be dealt with in a clear and precise manner.

45. The International Secretariat moreover laments the insufficient information referring to the nature of crimes liable to incur custodial sentences and the absence of information concerning the length of police custody, preventive detention as well as the conditions of detention in penitentiary establishments.

46. It would be desirable that the authorities indicate, if any, the protection measures for the child against all forms of physical or moral violence provided under the amendment to the Penal Code at present under examination. The authorities should also define the conditions in which a minor, victim of ill-treatment on the part of state agents, can lodge a complaint and be compensated in complete safety.

47. In this connection, the penal legislation at present under examination should provide an increase in the penalties against persons responsible for ill-treatment, especially if they are agents of the state.

48. It is moreover essential that sexual offences against minors, including procuring, incur penalties in proportion to the gravity of the act.

49. The authorities should ensure that children are not penalised for begging. Moreover, they must ensure that the new legislation shall abolish the unjustified discrimination mentioned in the report and which is an infringement of the protection of the child.

50. It is equally essential that the authorities pay particular attention to the situation of the Talibés whose living conditions, as well as those of the street children, deserve attention especially with

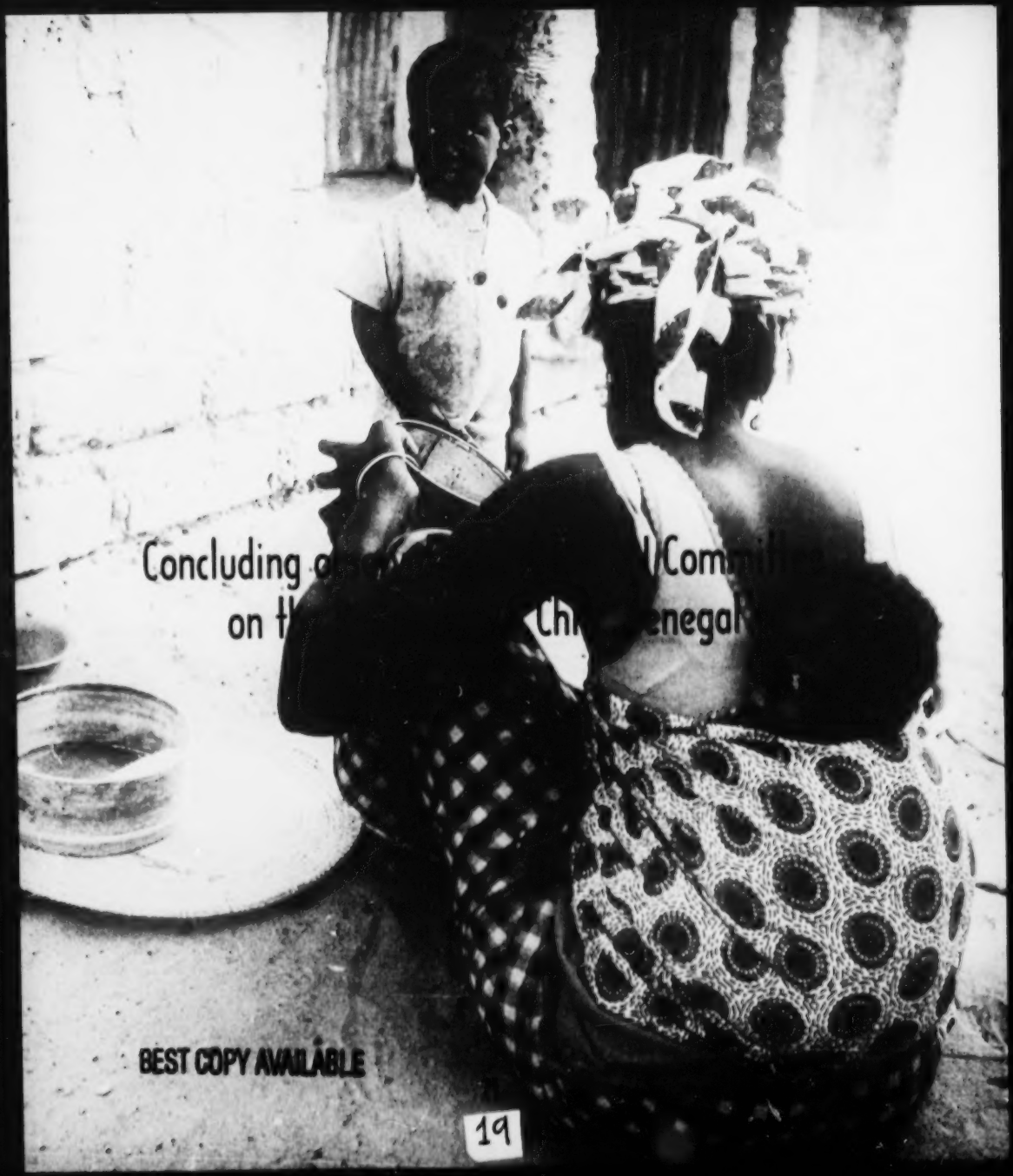
respect to the practice of begging and vagrancy.

51. The impossibility of transferring children to a simple police court should be subject to revision, in as much as such a procedure leads to an apparent contradiction between articles 565 and 566 of the Code of Penal Procedure and the Convention.

52. The authorities should undertake to make every effort to ensure that children in custody are brought before a court in the shortest possible time. In this connection very special attention should be paid to those children at present in detention.

53. It is essential that the authorities ensure that appropriate training be given to agents of the police, judges and others responsible for the administration of juvenile justice and, more generally, to professionals who deal with the implementation of the Convention, in order to make them better acquainted with the fundamental principles and standards of the Convention on the Rights of the Child.

54. Finally the International Secretariat of OMCT / SOS-Torture wishes to express its concern over the existing situation in Casamance and the consequences it may have for the full respect of the rights of the populations concerned and particularly of the children.

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115. The Committee considered the initial report of Senegal (CRC/C/3/Add.31) at its 247th, 248th and 249th meetings (CRC/C/SR.247-249), held on 8 and 9 November 1995 and adopted* the following concluding observations:

## A. Introduction

116. The Committee expresses its appreciation to the Government of Senegal for engaging, through a high-ranking delegation, in a constructive dialogue with the Committee. The Committee regrets, however, that the report has not followed the guidelines for the preparation of States parties' initial reports and that some areas covered by the Convention have not been addressed therein.

## B. Positive factors

117. The Committee, noting the long-standing attachment of the State party to international human rights instruments and recalling its active participation in the drafting process of the Convention, expresses satisfaction at the early ratification of the Convention by Senegal.

118. The Committee welcomes the fact that Senegal applies the principle of the primacy of international human rights standards over national legislation. The Committee also notes with satisfaction the fact that the Convention is self-executing and that its provisions may be invoked before the court.

119. The Committee notes with satisfaction the active role played by Senegal to promote awareness of children's rights, as reflected in the 1992 Dakar International Conference on the Assistance to the African Child and at the recent African Preparatory Meeting for the Fourth World Conference on Women, during which particular attention was paid to the situation of the girl child.

120. Specific initiatives adopted in the context of the ratification of the Convention are also welcomed, including the establishment of Children's Parliaments at the national and regional levels, the establishment of a Presidential Committee to ensure follow-up to the World Summit for Children and the promotion of the Movement of Mayors for Children.

### C. Factors and difficulties impeding the application of the Convention

121. The Committee acknowledges the economic difficulties encountered by the State party, particularly those arising from the implementation of the structural adjustment policies and the recent devaluation of the CFA franc.

### D. Principal subjects of concern

122. The Committee is concerned that some traditional cultural attitudes towards children may hamper the full enjoyment of the rights embodied in the Convention by children in Senegal. An understanding of children as subjects of rights has not yet penetrated all strata of Senegalese society.

123. The Committee is concerned at the insufficient attention paid to the systematic training of professional groups working for children, including teachers, social workers, judges and law enforcement officials.

124. The Committee is concerned at the insufficient measures taken to ensure a system of data collection relevant for monitoring the implementation of the Convention; desegregated data and appropriate indicators would allow for an assessment of progress to be made in all areas, in relation to all groups of children, at the national, regional and local levels.

125. The Committee is also concerned at the insufficient steps taken to ensure the full conformity of national legislation with the provisions of the Convention. The Committee notes in particular the lack of conformity of legislative provisions in matters relating to the legal definition of the child. The early and lower marriageable age for girls compared with boys raises serious questions as to its compatibility with the Convention, in particular article 2. The discrepancy between the age for completion of compulsory education and the minimum age for admission to employment is another matter of concern. The lack of a minimum age below which children are presumed not to have the capacity to infringe penal law is also noted with concern.

126. The Committee is particularly concerned at the insufficient measures to ensure the effective implementation of the

principle of non-discrimination. In this regard, it notes the persistent discriminatory attitudes towards girls, also reflected in their notably lower school attendance and their higher drop-out rate. It also regrets the prevailing de facto and de jure discrimination towards children born out of wedlock.

127. With regard to article 4 of the Convention, the Committee is concerned about the inadequacy of measures taken to ensure the implementation of economic, social and cultural rights to the maximum extent of available resources. The proportion of GDP allocated to health according to the recommendations of the World Health Organization.

128. The absence of compulsory and free education at the primary level raises deep concern.

129. The Committee is seriously worried at the difficult living conditions faced by a great number of talibés, who are deprived of the enjoyment of their fundamental rights under the law.

130. The Committee expresses its concern about the number of working children, particularly those working in the informal sector, and about the situation of girls working as domestic servants.

131. The Committee is also concerned about the inadequacy of the existing juvenile justice system and its lack of compatibility with the Convention.

## E. Suggestions and recommendations

132. The Committee encourages the Government to pursue its efforts aiming at promoting advocacy and awareness and understanding of the Convention and having its basic principles grasped by the general public, in particular by ensuring the translation of the Convention in all national languages and paying particular attention to people living in rural areas. The Government should pursue such efforts in close cooperation with community and religious leaders, with a view to promoting change in persisting negative attitudes towards children, particularly girls, and to abolishing practices prejudicial to the health of children, in particular female genital mutilations.

133. The Committee also encourages the State party to ensure on a systematic basis training activities on the Convention to professional groups working with and for children, including teachers, judges, social workers, law enforcement officials and personnel entrusted with the task of ensuring data collection in the areas covered by the Convention.

134. The Committee recommends that a permanent and multidisciplinary coordinating mechanism be developed for monitoring and evaluating the progress achieved in the implementation of the Convention.

135. The Committee also recommends that measures be taken to improve the system of collecting statistical and other data in all areas covered by the Convention and on the basis of appropriate indicators at the national, regional and local levels. Such a system should include all groups of children, while paying particular attention to the most vulnerable groups, including poor children, girls, domestic servants and talibés.

136. The Committee suggests that special efforts be developed to ensure an effective system of birth registration, in the light of article 7, to ensure the enjoyment of the fundamental rights of the Convention by all children without discrimination and as a meaningful tool to assess prevailing difficulties and to promote progress.

137. With respect to the implementation of article 4 of the Convention, the Committee recommends that particular attention be paid to the need to ensure budget allocations, to the maximum extent of available resources, to implement economic, social and cultural rights in the light of the principles of non-discrimination and the best interest of the child. Efforts should be pursued to reduce the negative impact on children of policies of structural adjustment.

138. The Committee recommends that the State party ensure that national legislation conforms fully to the provisions and principles of the Convention, in the light of the concerns identified by the Committee and of the study on a comprehensive law reform conducted under the auspices of UNICEF. The principles of the Convention including those relating

to the best interests of the child and the prohibition of discrimination and of participation of children in matters affecting them should be reflected in domestic law. Specific provisions should be included with a view to clearly forbidding female genital mutilation and any form of torture or cruel, inhuman or degrading treatment or punishment, as well as of any form of corporal punishment within the family. Adequate legislative and other measures should also be taken to establish a complaints procedure for children whose fundamental rights have been violated.

139. The Committee recommends that legislative measures be taken to establish a definition of the child in the light of the Convention, including with a view to ensuring an equal age for marriage for girls and boys in the light of article 2, a minimum age of criminal responsibility in the light of article 40, paragraph 3 (a), and an equal age of completion of compulsory education and minimum age for admission to employment, in the light of articles 28, 29 and 32. The Committee also recommends that the principle of non-discrimination be clearly reflected in the law, including in relation to children born out of wedlock.

140. The Committee recommends that in the process of a comprehensive law reform consideration be given to the full implementation of the principles and provisions of the Convention and of other relevant United Nations standards in the field of the administration of juvenile justice, including the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, aiming at a child-oriented system in the light of the best interests of the child.

141. The Committee further recommends that reform of child labour legislation should address the situation of children working in the informal sector, paying due attention to domestic service, in the light of the recommendations made in the study prepared under the auspices of ILO. In this regard, the Committee would like to suggest that the State party consider requesting technical assistance from ILO.

142. The Committee suggests that further steps be taken to strengthen the education system, particularly in the rural areas, to improve the quality of teaching and to reduce drop-out rates. The Committee

also recommends that the State party adopt all necessary measures to ensure a system of compulsory and free primary education, on the basis of equal opportunity, paying due regard to the situation of girls.

143. The Committee recommends that in the implementation process of the Convention the State party pay special attention to the situation of talibés. Further measures should be adopted to ensure the effective enjoyment of their fundamental rights and that they are protected against any form of discrimination. Efforts should be made to ensure an effective monitoring system of their situation by the State party, in close cooperation with religious and community leaders.

144. In the light of article 44, the Committee suggests that the initial report presented by Senegal be made widely available to the public at large and that the publication of the report be considered, along with the summary records of the discussion and the concluding observations adopted thereon by the Committee.

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